

RICHARDS, LAYTON & FINGER

A PROFESSIONAL ASSOCIATION

ONE RODNEY SQUARE

920 NORTH KING STREET

WILMINGTON, DELAWARE 19801

DIRECT DIAL NUMBER

302-651-7718

WADE@RLF.COM

WILLIAM J WADE
DIRECTOR

(302) 651-7700

FAX (302) 651-7701

WWW.RLF.COM

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BY E-FILING

The Honorable Kent A. Jordan
United States District Court
for the District of Delaware
844 King Street
Wilmington, DE 19801

**Re: *Honeywell International Inc., et al. v. Apple Computer, Inc., et al.*,
C.A. No. 04-1338-KAJ**

Dear Judge Jordan:

We write on behalf of defendants Matsushita Electric Industrial Co., Ltd. and Panasonic Corporation of North America (*fka* Matsushita Electric Corporation of America) (collectively, "Matsushita") to seek the Court's assistance in resolving a dispute with plaintiff Honeywell in connection with the above-referenced litigation, and specifically the Court's October 7 Order staying the case with respect to "Non-manufacturer Defendants."

In particular, Matsushita believes that paragraph 4 of the Court's October 7 Order effects a stay of the action with respect to Matsushita because it is a non-manufacturer Defendant that has complied with sections 1 through 3 of the Order. Thus, Matsushita has not responded to Honeywell's Amended Complaint, consistent with the other Non-manufacturer defendants that have been stayed. Honeywell disagrees, and contends that the stay does not apply to Matsushita.

We have been unable to resolve this issue between the parties, but have agreed with Honeywell to defer Matsushita's deadline for responding to the Amended Complaint until January 17, 2006 so that the issue can be raised with the Court.

Quite simply, more than a year into this litigation Honeywell has failed to identify a single Matsushita manufactured LCD module accused of infringement. The sole basis for the original complaint against Matsushita was in its capacity as a "customer" defendant. In particular, Honeywell originally alleged infringement by three Matsushita products, two mobile phones and a laptop computer, none of which includes an LCD module manufactured by Matsushita. In June 2005, well before the Court's October 7 Order, Honeywell's counsel was informed of the identity of the suppliers of the LCDs for these products. Two of the suppliers, are parties to the litigation. The third, has entered into a license agreement with Honeywell.

TMD

In April 2002 Matsushita transferred its LCD manufacturing division to TMD, an entity formed from the combination of the Matsushita division with Toshiba's LCD manufacturing operations. At that time, the employees and business records from Matsushita's LCD division were transferred to TMD. TMD is an entity independent of Matsushita, and not under its control.¹ Matsushita continues to manufacture comparatively small numbers of LCD modules, largely for use in its own products. However, Matsushita's current LCD manufacturing

¹ Matsushita is a 40% owner of TMD, with the remaining 60% owned by Toshiba.

activities have never been at issue in this litigation, as Honeywell has never identified a single Matsushita-made LCD accused of infringement.

Despite its failure to identify a single end product with a Matsushita LCD, or otherwise identify a Matsushita LCD module accused of infringement, Honeywell has refused to agree that Matsushita is a Non-manufacturer defendant for purposes of the Court's October 7 Order. Honeywell has provided two reasons for its refusal.

First, in May 2005, Honeywell listed an additional LCD module accused of infringement, which it identified as "Panasonic part number EDTCA32QSF." However, based on available information, Matsushita determined that this module was never manufactured by Matsushita. Rather, this module is a TMD product, as shown by a TMD data sheet available from TMD's Web site for a module identified as "EDTCA32" (Exh. 1), which is now licensed. This information was conveyed to Honeywell's counsel.

Second, and related, Honeywell alleged in a letter dated December 13, 2005 that its "investigation indicates that [the EDTCA32] module, and others like it, were being manufactured and offered for sale by Matsushita prior to [the formation of TMD on April 1, 2002]." Honeywell was asked to provide further information concerning the basis for its contention that the EDTCA32 module was previously made by Matsushita, and identification of any other pre-TMD Matsushita LCD modules accused of infringement so that appropriate inquiry could be made with Matsushita. However, Honeywell's counsel has refused to provide such information on the basis that it does not wish to provide "free discovery."

In sum, despite repeated requests, Honeywell has failed to provide any basis for its contentions that the EDTCA32QSF LCD module is a non-licensed Matsushita product, or that

prior to the formation of TMD, Matsushita manufactured and sold “other [LCD modules] like it” that are alleged to infringe. Rather, it appears that Honeywell seeks to maintain the action against Matsushita as an LCD manufacturer based on speculation that it may identify a basis for infringement through broad, burdensome discovery of all LCD modules and products containing LCD modules manufactured or sold by Matsushita dating back to October 1998 (six years before the original complaint was filed).

Honeywell’s position is contrary to the Court’s prior rulings in this case. As the Court has made clear, Honeywell’s identification of three end products, each with third-party supplied LCDs, and a single, licensed TMD LCD, in no way justifies a fishing expedition involving hundreds if not thousands of end products and LCD modules. Although this action has now been expanded to encompass more than 20 LCD module manufacturers and over a hundred different models of LCDs specifically identified by Honeywell, not one of them is manufactured by Matsushita. There is no reason to burden the Court, Matsushita, or the other parties to the litigation by requiring the active participation of a defendant that largely exited the LCD module manufacturing business in April 2002, simply because Honeywell speculates that it might uncover some remaining liability from before this time. This would serve only to make the litigation even more unmanageable than it already is given the number of significant LCD module manufacturers now involved.

Finally, there is no prejudice to Honeywell in staying the case against Matsushita. As an initial matter, a stay does not preclude Honeywell from subsequently seeking leave to lift the stay should there be a change in circumstances that justify lifting the stay. Second, the fact that Honeywell has not identified a single Matsushita LCD module accused of infringement well

over a year after it initially filed suit indicates that there is likely little, if any, potential liability from sales prior to the formation of TMD.

In view of the foregoing, Matsushita requests that the Court rule that Matsushita is a "Non-manufacturer defendant" against which this case is stayed in accordance with the Court's October 7, 2005 Order.

Respectfully,



William J. Wade

WJW/bw
Enclosure

cc:
Clerk of the Court (By ECF and Hand Delivery)
All Local Counsel of Record (By ECF and Hand Delivery)

EXHIBIT A

[Site Map](#)

Type Name	EDTCA32
Features	
Applications	for CAR Navigation, AV use
Product Status	
Screen Size	16.0cm (6.5inch)
Number of Pixels((W)x(H))	400pixel x234pixel
Pixel Pitch((W)x(H))	0.359mm x0.339mm
Aspect Ratio	16:9
Pixel Density	
Active Area((W)x(H))	143.4mm x79.3mm
Pixel Arrangement	Stripe
Display Mode	ACTIVE MATRIX TRANSMISSIVE
Device Type	a-Si
Surface Treatment	AG Wide viewing angle
Number of Colors	Full-color
Contrast Ratio	
Luminance(typ)	350cd/m ²
Response Time(typ)	
Response Time(max)	
Viewing Angle(typ)	
Viewing direction(CR Peak)	
Supply Voltage(typ)	3.3V, 17V, -5V, -13V
Power Consumption(typ)	4.0W
Interface	Specific Analog RGB for TFT
Number of Gray Level	
Dimensional Outline ((W)x(H)x(D))(typ)	155.0mm x89.2mm x7.7mm
Weight(typ)	155g
Backlight	side light(L-shaped lamp)
Backlight Lifetime	
Operating Ambient Temperature	
Storage Temperature	
Datasheet	
Remarks	Controller IC and Inverter are not included

Note 1: The numerical values between () shows the preliminary values.

2: Specifications may be subject to change without notice.

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